

Disciplinary and Other NASD Actions

REPORTED FOR NOVEMBER

NASD® has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of October 2003.

Firms Fined, Individuals Sanctioned

Axiom Capital Management, Inc. (CRD #26580, New York, New York), Mark David Martino (CRD #1010228, Registered Principal, White Plains, New York), David Leon Jordon (CRD #262161, Registered Representative, Scarsdale, New York), and Jeffrey Stuart Goldberg (CRD #1947322, Registered Representative, Hillside, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$50,000. Martino was fined \$15,000 and suspended from association with any NASD member in any principal or supervisory capacity for 60 days. Jordon was fined \$10,000 and suspended from association with any NASD member in any capacity for 20 days. Goldberg was fined \$10,000 and suspended from association with any NASD member in any capacity for 45 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, Jordon, and Goldberg published and disseminated to the investing public research reports regarding issuers that contained material misrepresentations, omissions of fact, and exaggerated, unwarranted, and misleading statements. The findings also stated that the firm failed to disclose its ownership of warrants.

NASD also found that the firm and Martino failed to insure that each item of sales literature, including research reports, was approved by signature or initial by a registered principal. Although Martino approved each report for publication, he failed to do so by signature or initial as required. In addition, NASD found that the firm and Goldberg disclosed in a report that the firm had received fees for writing research reports but failed to disclose the amount as required by the Securities Act of 1933. Moreover, NASD found that the firm and Martino failed to adequately supervise Jordon and Goldberg in their writing of research reports. Furthermore, NASD found that the firm failed to establish, maintain, and enforce a system and written supervisory procedures to supervise the publication of research reports reasonably designed to achieve compliance with rules and regulations.

Goldberg's suspension began October 20, 2003, and will conclude at the close of business December 3, 2003. Jordon's suspension began October 20, 2003, and concluded November 8, 2003. Martino's suspension began October 20, 2003, and will conclude at the close of business December 18, 2003. (NASD Case #CAF030047)

Harrison Douglas, Inc. (CRD #16515, Denver, Colorado) and Douglas Wayne Schriener (CRD #1140409, Registered Principal, Aurora, Colorado) submitted an Offer of Settlement in which the firm was censured and fined \$25,000, jointly and severally with Schriener. Schriener was also suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Schriener failed to disclose timely material facts on his Uniform Application for Securities Registration or Transfer (Form U4). The findings also stated that Schriener filed false and misleading information on his Form U4 and did not complete the Regulatory Element of Continuing Education for which his registration subsequently became inactive and continued to act in capacities that required registration. NASD also found that the firm, acting through Schriener, failed to take steps to prohibit Schriener from performing any duties and functioning in any capacity requiring registration. The findings also stated that the firm's supervisory procedures were not reasonably designed to achieve compliance with NASD Membership and Registration Rule 1120(a), the Regulatory Element of Continuing Education.

Schriener's suspension began October 20, 2003, and will conclude at the close of business November 18, 2003. (NASD Case #C3A030028)

Kelmoore Investment Co., Inc. (CRD #22509, Palo Alto, California) and Shawn Kelmon Young (CRD #4089904, Registered Principal, Palo Alto, California). The firm was censured and fined \$10,000, and Young was fined \$10,000 and suspended from association with any NASD member as a financial and operations principal for 30 business days. The sanctions were based on findings that the firm, acting through Young, utilized the instrumentalities of interstate commerce to engage in securities transactions while failing to maintain its minimum net capital as required by the Securities and Exchange Commission (SEC). NASD also found that the firm, acting through Young, entered on its books and records a journal entry totaling \$200,000 for which there was no basis.

Young's suspension began September 15, 2003, and concluded at the close of business October 24, 2003. (NASD Case #C01020012)

Paragon Capital Markets, Inc. (CRD #18555, East Hanover, New Jersey), George Bernard Levine (CRD #307904, Registered Principal, Boca Raton, Florida), and Danny Jay Levine (CRD #1007419, Registered Principal, East Hanover, New Jersey) submitted an Offer of Settlement in which the firm was censured and fined \$50,000, jointly and severally with G. Levine and D. Levine. The firm agreed to refrain from participating as a lead underwriter or co-underwriter in an initial public offering (IPO) of securities for three years. The firm also agreed to refrain from maintaining and servicing more than 100 retail securities accounts for three years and not to replace any of the 100 retail securities accounts with new accounts should any

of them be closed by public customers during the three-year period. George Levine was also fined \$25,000, suspended from association with any NASD member in any capacity for 60 days, and ordered to requalify by exam as a general securities principal (Series 24) before serving in a capacity requiring such registration. Danny Levine was also fined \$40,000, suspended from association with any NASD member in any capacity for 60 days, and ordered to requalify by exam as a general securities principal (Series 24) before serving in a capacity requiring such registration.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through G. Levine, engaged in the sale of IPO common shares and warrants to public customers, misrepresented the structure of the IPO, and created an improper tie-in by instructing the firm's brokers to solicit the offering securities to customers as a unit only when the firm's Registration Statement filed with the SEC provided that common shares and warrants could be purchased separately. The findings also stated that the firm, acting through G. Levine, engaged in unauthorized trades by causing purchases of the offering to be inputted upon the effective time of the offering without giving the brokers the required opportunity to first call the customers to firm up the IPO purchases. NASD also found that the firm, acting through G. Levine, caused the clearing firm to create and mail inaccurate transaction confirmations to customers that failed to disclose the actual number of IPO shares and warrants purchased and reflected an unauthorized purchase of a unit IPO security.

In addition, NASD found that the firm, acting through G. Levine, caused the firm to maintain inaccurate books and records by entering a dummy "ADP" security number for a non-existent unit security on confirmations, trade cancellation notices, client account statements, and proprietary account statements, and by recording the entry of sales and cancellations of such sales for nonpayment when no such legitimate sales had ever occurred. Moreover, the firm, acting through D. Levine, placed IPO securities in customer accounts to give the false impression that the offering securities were fully distributed when, in fact, they were not. Furthermore, NASD found that the firm, acting through D. Levine, failed to timely cancel the unauthorized IPO purchases and delayed taking the securities back into the firm's inventory at the IPO price that was at that time higher than the market price, avoiding significant losses. The findings also stated that the firm, acting through D. Levine, created a market in IPO securities before completing a bona fide distribution of the IPO securities to the public.

Danny Levine's suspension began November 3, 2003, and will conclude January 1, 2004. George Levine's suspension will begin January 5, 2004, and will conclude at the close of business March 5, 2004. (NASD Case #CAF030009)

Summit Trading, Inc. (CRD #43160, Coral Springs, Florida) and William Neal Sunshine (CRD #1739205, Registered Principal, Houston, Texas) submitted an Offer of Settlement in which the firm was censured and fined \$17,500, \$7,500 of which was assessed jointly and severally with Sunshine. Additionally, Sunshine was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Sunshine reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Sunshine, engaged in a securities business while failing to maintain sufficient net capital. The findings also stated that the firm, acting through Sunshine, failed to maintain and keep current its general ledger and trial balance and the firm failed to file its FOCUS Part IIA report. The findings further stated that the firm, acting through Sunshine, failed to establish, maintain, and enforce a system reasonably designed to ensure the firm's compliance with all aspects of the Net Capital Rule. NASD found that the firm failed to indicate on the order memorandum for short-sale transactions whether the order was long or short and failed to include the short-sale modifier for transaction reports transmitted through the Automated Confirmation Transaction ServiceSM (ACTSM). In addition, the findings stated that the firm effected short sales for Nasdaq National Market[®] (NNM[®]) securities at or below the inside bid when the current inside bid was below the preceding inside bid.

Sunshine's suspension began November 3, 2003, and will conclude May 2, 2004. (NASD Case #C06030015)

Tejas Securities Group, Inc. (CRD #36705, Austin, Texas) and Arnold Reed Durant (CRD #716150, Registered Principal, Austin, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$35,000, \$10,000 of which was jointly and severally with Durant. The firm was also required to file with NASD's Advertising Regulation Department the firm's current Web site and all revisions to the Web site, including all sales literature and advertisements posted on the Web site at least 10 days prior to their first use for six months. Durant was also censured and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, the firm and Durant consented to the described sanctions and to the entry of findings that the firm's Web site contained research coverage of various stocks that contained exaggerated, unwarranted, or misleading statements and claims. The findings also stated that the firm's Web site selectively posted successful recommendations and failed to set forth all recommendations as to the same type, kind, grade, or classification of securities made by the firm within the prior year. NASD also found that the firm posted press releases and summaries of research reports for issuers on the Web site that failed to present a complete discussion of the risks associated with the securities discussed and contained a high price target without fully disclosing the basis for such larger

price or the speculative nature of the security. In addition, NASD found that the firm failed to adequately keep and maintain complete records or files relating to the preparation and approval of the press releases and summaries of the research reports and the dates when they were posted on the Web site. Moreover, NASD found that Durant failed to adequately supervise the posting of press releases and research report summaries on the firm's Web site and failed to review, or adequately review, some of the other materials posted on the Web site.

Durant's suspension began October 20, 2003, and concluded at the close of business October 24, 2003. (NASD Case #CAF030051)

Firms and Individuals Fined

D.R. Mayo & Co., Inc. (CRD #8658, San Francisco, California) and Donald Richard Mayo (CRD #324176, Registered Principal, Moraga, California) submitted an Offer of Settlement in which they were censured and fined \$17,500, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Mayo, permitted representatives to perform duties as registered persons when they were deemed inactive for failure to comply with the Regulatory Element of Continuing Education. The findings stated that the firm, acting through Mayo, failed to establish and maintain a supervisory system or failed to establish, maintain, and enforce written procedures reasonably designed to achieve compliance with federal securities laws and NASD rules. The findings also stated that the firm, acting through Mayo, failed to report promptly to NASD customer complaints against the firm and Mayo that were settled for more than \$15,000. The findings further stated that the firm, acting through Mayo, utilized the instrumentalities of interstate commerce to engage in securities business while failing to maintain the required minimum net capital. NASD also found that the firm, acting through Mayo, failed to prepare and maintain monthly net capital computations. (NASD Case #C01030005)

O'Brien & Shepard, Inc. (CRD #7152, Englewood Cliffs, New Jersey), Jeffrey Peter Flaster (CRD #209507, Registered Principal, Fort Lee, New Jersey), and Michael Stuart Petrucelli (CRD #1106857, Registered Principal, Short Hills, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$20,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Flaster, permitted a representative to act as a municipal securities representative prior to properly qualifying and/or registering as such. NASD also found that the firm, acting through Petrucelli, permitted registered representatives to act in a capacity that required

registration while their registration statuses with NASD were inactive due to their failure to complete the Regulatory Element of NASD's and the Municipal Securities Rulemaking Board's (MSRB) Continuing Education Requirements. The findings also stated that the firm failed to establish and maintain adequate written supervisory procedures reasonably designed to achieve compliance with the Regulatory Element of NASD's and the MSRB's Continuing Education Requirements. (NASD Case #C9B030065)

Firms Fined

Banc One Securities Corporation (CRD #16999, Columbus, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that it permitted individuals to perform duties as registered persons while their registration statuses were inactive due to failure to timely complete the Regulatory Element of NASD's Continuing Education Requirements. The findings also stated that the firm received written customer complaints and failed to file the complaints with NASD in a timely manner. NASD also found that the firm utilized confidentiality clauses in settlement agreements with public customers that prohibited or otherwise inhibited the customers from disclosing the settlement terms and underlying facts of the disputes to securities regulators and self-regulatory organizations (SROs). (NASD Case #C8B030018)

Burlington Capital Markets, Inc. (CRD #26991, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$12,500, and required to revise its supervisory procedures concerning short-sale rules within 30 business days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short-sale orders in certain securities and failed to make an affirmative determination prior to executing such transactions. The findings also stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning short-sale rules. (NASD Case #CMS030209)

Citigroup Global Markets Inc. (CRD #7059, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$72,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it effected transactions in NNM Securities while a trading halt was in effect. The findings stated that the firm failed, within 90 seconds after execution, to transmit through ACT last-sale reports of transactions in OTC Equity securities, and failed to designate through ACT such last-sale reports as late. The findings stated that, as a

registered market maker in securities, an order was presented to the firm at the firm's published bid or published offer in an amount up to its published quotation size. NASD found that the firm failed to execute the orders upon presentment and thereby failed to honor its published quotation. The findings also stated that the firm failed, in transactions for or with a customer, to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. Furthermore, NASD found that the firm failed to contemporaneously or partially execute customer limit orders in NASDAQ securities after it traded each subject security for its own market-making account at a price that would have satisfied each customer's limit order.

In addition, the findings stated that the firm failed to report to ACT the correct symbol indicating whether the firm executed transactions in eligible securities in a principal or agency capacity. NASD also determined that the firm failed to display immediately customer limit orders in NASDAQ securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer in each such security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. The findings also included that the firm incorrectly reported through ACT duplicate last-sale reports of transactions in OTC Equity securities. (NASD Case #CMS030211)

EDI Financial, Inc. (CRD #15699, Dallas, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$12,500, and ordered to pay \$6,181, plus interest, in restitution to a public customer. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it sold municipal bonds from its own account to that of a customer at aggregate prices that were not fair and reasonable. The findings also stated that the firm failed to establish and maintain a supervisory system reasonably designed to ensure that the aggregate prices for municipal transactions were fair and reasonable. (NASD Case #C06030022)

GunnAllen Financial, Inc. (CRD #17609, Tampa, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000, \$5,000 of which was imposed jointly and severally. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm, acting through an individual, failed to obtain NASD approval prior to effecting a material change in business operations by expanding the number of registered representatives and branch offices beyond the limits delineated by NASD. (NASD Case #C07030066)

J.P. Turner and Company, L.L.C. (CRD #43177, Atlanta, Georgia) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000, \$7,500 of which was jointly and severally. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to obtain the information required by NASD from investment partnerships, corporations, or similar accounts prior to selling shares of hot issues to those accounts. The findings also stated that the firm accepted cash deposits from public customers for the purchase of hot issue IPOs prior to the effective date of the offerings. NASD also found that the firm filed inaccurate Free-Riding and Withholding Questionnaires that failed to disclose purchases by investment partnerships, corporations, or similar accounts. In addition, NASD found that the firm, acting through an individual, failed to establish and maintain a supervisory system reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules relating to the sale of hot issues. (NASD Case #C07030068)

MONY Securities Corporation (CRD #4386, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$225,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to establish and maintain a system to supervise the activities of registered representatives relating to their participation in outside business activities and private securities transactions. The findings stated that the firm failed to effectively respond to warning signals that representatives were engaged in outside business activities and/or selling away. NASD also found that the firm failed to conduct a complete investigation of representatives' selling away activities and failed to take prompt and effective action to prevent representatives from continuing to sell away. In addition, NASD found that the firm failed to monitor incoming and outgoing correspondence as required and failed to promptly and effectively address deficiencies discovered during internal audits. Furthermore, the findings stated that the firm failed to report the selling away violations to NASD. (NASD Case #C02030057)

National Clearing Corp. (CRD #14343, Beverly Hills, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$70,000, required to pay \$8,171.43, plus interest, in restitution to public customers, and required to revise its written supervisory procedures with respect to applicable securities laws and regulations concerning the Order Audit Trail SystemSM (OATSSM), the Three-Quote Rule, best execution, ACT reporting, limit-order display, the 1% Rule, and short-sale affirmative determination within 30 business days. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. The

findings stated that the firm also incorrectly reported principal transactions with its customers as agency cross transactions and failed to display immediately customer limit orders in NASDAQ securities and listed securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer in each such security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. NASD determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning OATS, the Three-Quote Rule, best execution, ACT reporting, limit-order display, the 1% Rule, and short-sale affirmative determination. (NASD Case #CMS030214)

NexTrade, Inc. (CRD #41087, Clearwater, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it transmitted to OATS order reports that contained inaccurate, incomplete, or improperly formatted data. Specifically, the findings stated that the order reports failed to match to an ACT trade report, omitted the MPID of the sending firm, failed to report the proper order type, and failed to note all terms and conditions. In addition, the findings stated that the firm failed to submit required information to OATS for an order. (NASD Case #CMS030219)

Performance Capital Group LLC (CRD #35032, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it published quotations for an OTC equity security or, directly or indirectly, submitted such quotations for publication in a quotation medium and did not have in its records the documentation required by SEC Rule 15c2-11(a) ("Paragraph (a) information"); did not have a reasonable basis under the circumstances for believing that the Paragraph (a) information was accurate in all material respects; or did not have a reasonable basis under the circumstances for believing that the sources of the Paragraph (a) information were reliable. The findings stated that the firm failed to file a Form 211 with NASD at least three business days before the firm's quotations were published or displayed in a quotation medium. In addition, NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning SEC Rule 15c2-11 and NASD Marketplace Rule 6740. (NASD Case #CMS030207)

Prudential Securities Incorporated (CRD #7471, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was fined \$90,000, including disgorgement to NASD of \$22,677 in unlawful commissions

received. Without admitting or denying the allegations, the firm consented to the described sanction and to the entry of findings that the firm sold shares of unregistered stock and failed to investigate whether or not the stock could be legally sold despite being presented with numerous "red flags" indicating that a searching inquiry into the stock's registration was warranted. The findings also stated that the firm failed to establish and maintain a supervisory system reasonably designed to achieve compliance with federal securities laws, regulations, and NASD rules with respect to the sale of unregistered securities. (NASD Case #CAF030048)

Quest Capital Strategies, Inc. (CRD #16783, Laguna Hills, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$41,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it maintained NASD registrations of representatives who were not active in the firm's investment banking or securities business or were not functioning as representatives. The findings stated that the firm allowed registered individuals to perform duties requiring registration while the status of their registrations was inactive because they failed to complete the Regulatory Element of NASD's Continuing Education Rule. NASD also found that the firm, acting through an employee, failed to establish and maintain a system to supervise the activities of registered representatives reasonably designed to achieve compliance with NASD rules. (NASD Case #C02030058)

Ramius Securities, LLC (CRD #41076, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to revise its written supervisory procedures with respect to the entry of quotations into a quotations medium. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it published quotations for an OTC equity security or, directly or indirectly, submitted such quotations for publication in a quotation medium and did not have in its records the documentation required by SEC Rule 15c2-11(a) ("Paragraph (a) information"); did not have a reasonable basis under the circumstances for believing that the Paragraph (a) information was accurate in all material respects; or did not have a reasonable basis under the circumstances for believing that the sources of the Paragraph (a) information were reliable. The findings stated that the firm failed to file a Form 211 with NASD at least three business days before the firm's quotations were published or displayed in a quotation medium. In addition, NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning the entry of quotations into a quotations medium. (NASD Case #CMS030208)

Service Asset Management Company (CRD #47157, Austin, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000, \$5,000 of

which was assessed jointly and severally. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it conducted a securities business while failing to maintain its required minimum net capital. The findings also stated that the firm failed to properly identify trades reported to ACT as "sell short" and/or "sell short exempt." (NASD Case #C06030021)

The Island ECN, Inc. (CRD #20746, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to submit required information and execution reports and to report Reportable Order Events (ROEs) to OATS. NASD also found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning OATS reporting. (NASD Case #CMS030218)

Track Data Securities Corporation (CRD #103802, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$30,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to submit required information to OATS on 129 business days. (NASD Case #CMS030221)

Individuals Barred or Suspended

Anthony Harold Barkate (CRD #1255255, Registered Principal, Bakersfield, California) was barred from association with any NASD member in any capacity. The National Adjudicatory Council (NAC) imposed the sanction following appeal of an Office of Hearing Officers (OHO) decision. The sanction was based on findings that Barkate participated in private securities transactions without giving prior written notice to his member firm.

This case has been appealed to the SEC, and the bar is in effect pending consideration of the appeal. (NASD Case #C02010041)

David Mylo Beam (CRD #856560, Registered Representative, Seattle, Washington) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Beam consented to the described sanctions and to the entry of findings that he effected, or caused to be effected, transactions in a public customer's account on a discretionary basis without obtaining prior written authorization from the customer or his member firm.

Beam's suspension began November 3, 2003, and concluded at the close of business November 14, 2003. (NASD Case #C3B030016)

Samuel Bjelac, III (CRD #2973220, Registered Representative, Curtis Bay, Maryland) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Bjelac reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Bjelac consented to the described sanctions and to the entry of findings that he recommended and effected securities transactions without having reasonable grounds to believe that his recommendations to a public customer were suitable for the customer based on the customer's financial situation and needs, and in the light of the speculative nature of the trading strategies employed.

Bjelac's suspension began October 20, 2003, and will conclude at the close of business October 19, 2004. (NASD CASE #C9A030034)

Linda Cindy Brown (CRD #3008197, Associated Person, Strafford, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$2,500 and suspended from association with any NASD member in any capacity for one month. The fine must be paid before Brown reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Brown consented to the described sanctions and to the entry of findings that she willfully failed to amend her Form U4 to disclose a material fact.

Brown's suspension began October 6, 2003, and concluded at the close of business November 5, 2003. (NASD Case #C9A030031)

Robert Preston Buckingham (CRD #2808859, Registered Representative, Omaha, Nebraska) was barred from association with any NASD member in any capacity. The sanction was based on findings that Buckingham processed checks received by his member firm from public customers totaling \$95,000 for deposit into the customers' brokerage accounts and, without the customers' knowledge or consent, converted the funds by making internal accounting entries on the books and records of his member firm, caused the checks to be deposited in his personal brokerage account at his member firm, and used the funds for his own use and benefit. NASD also found that Buckingham failed to respond to NASD requests for information. (NASD Case #C04030006)

Jeffrey Robert Casciano (CRD #1598962, Registered Representative, Hoboken, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and suspended from association with any NASD

member in any capacity for 31 days; Casciano is deemed to have paid the \$15,000 fine and served the 31-day suspension. Without admitting or denying the allegations, Casciano consented to the described sanctions and to the entry of findings that he entered priced limit orders in NASDAQ securities through a member firm's terminals. NASD found that these orders were intended to improve, and did in fact improve, the National Best Bid or Offer (NBBO) in the applicable securities. The findings stated that, after having entered such orders, Casciano entered larger orders on the other side of the market to buy or sell shares of such securities for a firm proprietary account or a firm customer account. NASD found that, as intended, the orders were routed to market makers whose automated execution systems were programmed to buy or sell, and did buy or sell, such securities on an automated basis at prices equal to the NBBO and in an amount greater than the NBBO. In addition, NASD determined that, as a result, orders to buy shares of these securities were executed at prices that were lower, and orders to sell shares were executed at prices that were higher, than otherwise would have been able available, but for the entry of the NBBO improving orders; and, within a short time after execution of the orders, Casciano canceled priced limit orders that had been placed. Furthermore, NASD found that Casciano bought and sold these NASDAQ securities and generated profits. (NASD Case #CMS030206)

Sergio Castro (CRD #1865355, Registered Principal, Fullerton, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Castro consented to the described sanction and to the entry of findings that, without the prior knowledge, authorization, or consent from public customers, he executed and/or caused to be executed unauthorized transactions totaling \$1,000,000 in the customers' account and received \$20,000 in commissions. The findings also stated that Castro failed to respond to NASD requests for information. (NASD Case #C02030055)

Carl Edward Cherasia (CRD #2839143, Registered Representative, Toms River, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Cherasia consented to the described sanction and to the entry of findings that he sent a public customer a "Position Report" that misrepresented the value of the holdings in his brokerage account. NASD also found that Cherasia failed to respond to NASD requests for information. (NASD Case #C9B030071)

Brian James Clark (CRD #1440175, Registered Representative, Monroe, New Jersey) was barred from association with any NASD member in any capacity. The sanction was based on findings that Clark participated in private securities transactions for compensation without providing prior written notification to, and obtaining prior written approval

from, two member firms with which he was associated. The findings also stated that Clark submitted a Form U4 that contained false information. (NASD Case #C9B020052)

George Alfred Cohan, Sr. (CRD #2432090, Registered Representative, Brooklyn, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Cohan consented to the described sanction and to the entry of findings that he received \$19,192.33 from insurance companies as incentive compensation in connection with applications for life insurance that identified Cohan as the insurance agent. The findings also stated that no premium payments were effected, the policies were canceled, and Cohan failed to return the funds, thereby converting the funds for his own use and benefit. NASD also found that Cohan, as the insurance agent, submitted applications for life insurance that were fictitious in that no persons authorized Cohan to submit applications for life insurance on their behalf, and, in one instance, forged the individual's signature on the application without the individual's knowledge or authorization. In addition, NASD found that Cohan received \$984.55 from an insurance company after providing the company with a check for this amount as an initial premium in connection with a life insurance application and requesting return of the funds. Cohan's check to the insurance company was returned for insufficient funds, obligating him to return \$984.55 in funds received; Cohan failed to do so, thereby converting the funds for his own use and benefit. Furthermore, the findings stated that Cohan failed to respond to NASD requests for information or documents and to appear for an on-the-record interview. (NASD Case #C10030079)

Michelle Lynn Corradetti (CRD #1871939, Registered Representative, Reno, Nevada) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$20,000, including disgorgement of \$12,337.80 in commissions received, and suspended from association with any NASD member in any capacity for 15 business days. Without admitting or denying the allegations, Corradetti consented to the described sanctions and to the entry of findings that she engaged in the sale of unregistered securities, acting as an underwriter, and failed to investigate adequately whether the stock could be legally sold.

Corradetti's suspension began October 20, 2003, and concluded at the close of business November 7, 2003. (NASD Case #CAF030049)

George Carlton Flanner, Jr. (CRD #2487753, Registered Representative, Toledo, Ohio) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 10 business days. In light of the financial status of Flanner, no monetary sanctions were imposed. Without admitting or

denying the allegations, Flanner consented to the described sanction and to the entry of findings that he recommended to public customers that they invest approximately 89 percent of their total net worth in variable annuities without having reasonable grounds for believing that this recommendation was suitable for the customers on the basis of their financial situation, investment objectives, and needs.

Flanner's suspension began November 3, 2003, and concluded at the close of business November 14, 2003. (NASD Case #C8B030020)

Kenneth S. Friend (CRD #1715237, Registered Representative, Lake Zurich, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Friend consented to the described sanction and to the entry of findings that he created account statements for public customers that falsely indicated the value of investments in the accounts and provided these statements to the customers. The findings also stated that Friend failed to respond to NASD requests for information. (NASD Case #C04030053)

Paul Wilson Gillis, Jr. (CRD #1239766, Registered Principal, Murrieta, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$57,593 and suspended from association with any NASD member in any capacity for 18 months. The fine must be paid before Gillis reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Gillis consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written or oral notification to, and receiving prior written approval from, his member firm.

Gillis' suspension began November 17, 2003, and will conclude at the close of business May 16, 2005. (NASD Case #C02030063)

Israel G. Grossman (CRD #4201440, Registered Representative, Brooklyn, New York) submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Grossman reassociates with any NASD member in any capacity following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Grossman consented to the described sanctions and to the entry of findings that he willfully failed to disclose material facts on a Form U4.

Grossman's suspension began October 20, 2003, and will conclude at the close of business October 19, 2004. (NASD Case #C10020081)

David William Haburjak (CRD #2233093, Registered Representative, W. Gastonia, North Carolina) was barred from association with any NASD member. The sanction was based on findings that Haburjak changed the address of record of a public customer with the company that had issued the customer a variable annuity to the address of his member firm, without the customer's knowledge or authorization, and falsely denied that he had done so in written statements to his member firm. The findings also stated that Haburjak failed to follow the instructions of a public customer and made misrepresentations by providing the customer with a fictitious letter regarding the value of her variable annuity. NASD also found that Haburjak failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C07030028)

Concetta M. Hamilton (CRD #4612492, Associated Person, Philadelphia, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hamilton consented to the described sanction and to the entry of findings that she was responsible for issuing special purpose drafts that were pre-signed by an official of the insurance company affiliated with her member firm. The findings stated that, without authorization, Hamilton prepared and issued numerous special purpose drafts to herself and to various third parties to whom she owed money in which she and the third-party payees negotiated the drafts and, as a result, Hamilton converted \$6,900 to her own use and benefit. (NASD Case #C9A030032)

Steven Spiro Hecht (CRD #2028174, Registered Representative, Marina Del Rey, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 90 days. In light of the financial status of Hecht, no monetary sanction has been imposed. Without admitting or denying the allegations, Hecht consented to the described sanction and to the entry of findings that he entered buy (sell) orders in NASDAQ securities into an electronic communications network (ECN) at prices that did improve, and were intended to improve, the National Best Bid or Offer (NBBO) in such securities, in that the full price and size of such orders would be reflected in the public quotation system as the best prices and sizes at which a market participant was willing to buy or sell such securities. The findings stated that, after having entered such buy (sell) orders, Hecht routed to other companies orders to sell (buy) shares of such securities on behalf of a member firm's proprietary account. NASD also found that, by knowingly and intentionally engaging in this course of conduct, Hecht sold (purchased) shares of these securities at prices that were higher (lower) than Hecht would otherwise have been able to sell (purchase) shares of these securities, but for his entry of the orders. In addition, the findings stated that, immediately after Hecht received the executions of the orders that he had entered on behalf of a member firm's proprietary account, he canceled orders that he had entered and obtained a financial benefit.

Hecht's suspension began November 3, 2003, and will conclude January 31, 2004. (NASD Case #CMS030223)

Steven Richard Jaloza (CRD #1320831, Registered Representative, Muttontown, New York) and Salvatore Anthony Fradella (CRD #1482494, Registered Principal, Manhasset, New York) submitted an Offer of Settlement in which Jaloza was fined \$10,000 and suspended from association with any NASD member in any capacity for 45 days. Fradella was fined \$7,500 and suspended from association with any NASD member in a principal or supervisory capacity for six months. Without admitting or denying the allegations, Jaloza and Fradella consented to the described sanctions and to the entry of findings that a member firm, acting through Jaloza and Fradella, issued shares of their firm's preferred stock in a private placement offering and failed to disclose in the offering memorandum that the firm provided funding to one of the business ventures. The findings also stated that Jaloza failed to inform investors that the number of customer accounts actually active was far less than what was asserted in the memorandum. NASD also found that Jaloza and Fradella failed to exercise reasonable care in connection with their decision, on behalf of their member firm, to invest in a new business venture without a meaningful examination of the company's business operations or to take the necessary steps to ensure that it was a legitimate business enterprise with a sound business plan. In addition, NASD found that Jaloza failed to ensure that his member firm made and preserved required books and records and to file its quarterly FOCUS reports with NASD.

Jaloza's suspension began November 3, 2003, and will conclude at the close of business December 17, 2003. Fradella's suspension began November 3, 2003, and will conclude May 2, 2004. (NASD Case #CLI030003)

Michael G. Kamrath (CRD #4391458, Registered Representative, Agoura, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 30 business days. The fine must be paid before Kamrath reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kamrath consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to provide his member firm with prior written notification describing each proposed transaction, stating whether he had or would receive selling compensation in connection with the transactions, and to receive prior approval from his firm to engage in the transactions.

Kamrath's suspension began November 3, 2003, and will conclude at the close of business December 15, 2003. (NASD Case #C02030056)

Jacqueline Ann Kemp (CRD #4199658, Registered Representative, St. Peters, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Kemp consented to the described sanction and to the entry of findings that she misused and attempted to convert a \$400 check from a public customer. The findings stated that Kemp failed to respond to NASD requests for information. (NASD Case #C04030050)

David Allen Kettelhake (CRD #3241522, Registered Representative, Pawnee City, Nebraska) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Kettelhake consented to the described sanction and to the entry of findings that he misused for his own use and benefit customer funds intended for payments on insurance premiums by depositing their funds into his business checking account without the customers' consent or authorization. (NASD Case #C04030054)

John Francis Kilcommons (CRD #2418075, Registered Representative, Quincy, Massachusetts) was barred from association with any NASD member in any capacity. The sanction was based on findings that Kilcommons misused and converted a public customer's funds. The findings also stated that Kilcommons failed to respond to NASD requests for information. (NASD Case #C11030018)

Thomas Edward LaRossa (CRD #302701, Registered Principal, Boxford, Massachusetts) submitted an Offer of Settlement in which he was fined \$20,000 and suspended from association with any NASD member in a general securities principal capacity for 75 days. The fine must be paid before LaRossa reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification.

Without admitting or denying the allegations, LaRossa consented to the described sanctions and to the entry of findings that a member firm, acting through LaRossa, falsely represented to public customers and potential customers that it was a member of the MSRB. The findings also stated that LaRossa allowed his member firm to enter orders involving option contracts when it did not have a registered options principal. NASD also found that a member firm, acting through LaRossa, failed to register two sales offices as offices of supervisory jurisdiction and branch offices. In addition, NASD found that LaRossa allowed his member firm to violate its membership agreement with NASD in that he allowed the firm to change its controlling interest or management, open branch offices, enter transactions involving options contracts, and accept customer funds and securities on a routine basis without prior written notice to, and approval of, NASD. Moreover, NASD found that LaRossa failed to ensure that his member firm's supervisory system was reasonably designed to provide for the proper supervision of its operations and that the firm's written

supervisory procedures adequately addressed regulatory requirements applicable to the firm's activities. Furthermore, NASD found that LaRossa failed to adequately supervise the firm's operations to reasonably achieve compliance with applicable securities laws, regulations, and NASD rules.

LaRossa's suspension began November 3, 2003, and will conclude at the close of business January 16, 2004. (NASD Case #C07030019)

James Robert Laughton, Jr. (CRD #1009597, Registered Supervisor, Reno, Nevada) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$12,500 and suspended from association with any NASD member in any principal capacity for 15 business days. Without admitting or denying the allegations, Laughton consented to the described sanctions and to the entry of findings that he failed to supervise reasonably the activities of a registered representative in the sale of unregistered stock even though several warning signs were present. The findings also stated that Laughton failed to respond to these warning signs and to assess whether the stock was registered.

Laughton's suspension began October 20, 2003, and concluded at the close of business November 7, 2003. (NASD Case #CAF030050)

Robert Waldo Leavenworth (CRD #2766524, Registered Representative, Atlanta, Georgia) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, ordered to disgorge \$5,232.86 in commissions as partial restitution to public customers, and suspended from association with any NASD member in any capacity for 90 days. The fine and disgorgement must be paid before Leavenworth reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Leavenworth consented to the described sanctions and to the entry of findings that he made unsuitable recommendations to public customers in that he failed to recommend the lowest cost alternative to customers when recommending the purchase of loaded mutual funds.

Leavenworth's suspension began September 17, 2003, and will conclude December 13, 2003. (NASD Case #C07030061)

Chris Joseph Lim (CRD #847160, Registered Principal, Chicago, Illinois) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Lim consented to the described sanction and to the entry of findings that, acting on behalf of a member firm, he used the mails or other means or instrumentalities of interstate commerce to effect transactions in securities when the firm failed to maintain the minimum required net capital. The findings stated

that Lim, acting on behalf of a member firm, prepared inaccurate trial balances and net capital computations and filed a FOCUS PART IIA report with NASD that was inaccurate and overstated the firm's net capital. Furthermore, NASD found that Lim gave unregistered individuals and an entity that was not a member of NASD a total of \$1,151,608.90, representing a percentage of the commission that the firm received from securities transactions for various customers of the firm. The findings also stated that Lim refused to respond fully to NASD questions and a request for documents. (NASD Case #C8A030073)

Jerry Michael Low (CRD #2360507, Registered Representative, Seattle, Washington) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Low reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Low consented to the described sanctions and the entry of findings that he executed and/or caused the execution of unauthorized transactions in the accounts of public customers without their prior knowledge, authorization, or consent.

Low's suspension began October 20, 2003, and will conclude at the close of business October 19, 2005. (NASD Case #C3B030015)

Philip Peter Marcucci, Sr. (CRD #2335911, Registered Representative, Gibertsville, Pennsylvania) submitted an Offer of Settlement in which he was fined \$75,000 and suspended from association with any NASD member in any capacity for 15 months. The fine must be paid before Marcucci reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Marcucci consented to the described sanctions and to the entry of findings that he participated in private securities transactions outside the scope of his employment with his member firm without providing prior written notice to, or written approval from, his member firm.

Marcucci's suspension began October 6, 2003, and will conclude at the close of business January 5, 2005. (NASD Case #C9A030020)

Victor Giles Nance (CRD #1337905, Registered Representative, Clinton, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Nance consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information and to appear for on-the-record testimony. (NASD Case #C05030052)

John Brent Packard (CRD #2777949, Registered Representative, Saratoga Springs, Utah) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred

from association with any NASD member in any capacity. Without admitting or denying the allegations, Packard consented to the described sanction and to the entry of findings that he caused the transfer of \$400,000 from the securities account of a public customer of his member firm to a bank account that he controlled and took possession of the funds. NASD also found that Packard failed to respond to NASD requests for information. (NASD Case #C3A030042)

Mauro Jose Padilla (CRD #2753876, Registered Representative, San Antonio, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for one month, and required to pay \$6,680 in restitution to public customers. The fine and restitution must be paid before Padilla reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Padilla consented to the described sanctions and to the entry of findings that he engaged in an outside business activity and failed to provide prompt written notice of these activities to his member firm.

Padilla's suspension began October 20, 2003, and will conclude at the close of business November 19, 2003. (NASD Case #C06030020)

James Forrest Parker (CRD #2767719, Registered Representative, New York, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Parker received a commission check from his member firm in the amount of \$2,138 and cashed the check on the same day. NASD also found that on the next day his member firm advised him that the first check had been issued erroneously, that a "stop payment" had been placed on the check, and that a second check would be issued to him in the same amount. The findings also stated that Parker failed to inform his member firm that he had already cashed the first check. NASD also found that Parker's member firm issued him a second check for \$2,138 that he cashed upon receipt. In addition, NASD determined that his firm requested, on several occasions, that Parker return the duplicate payment of \$2,138, but he failed to do so. NASD also found that Parker eventually repaid \$1,040 of the funds but has yet to repay to the firm the remaining \$1,098. (NASD Case #C9B030021)

Robert Brown Paul (CRD #828987, Registered Principal, Westminster, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000, suspended from association with any NASD member in any principal or supervisory capacity for one year, and ordered to requalify by exam as a general securities principal before again serving in such capacity. The fine must be paid before Paul reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Paul consented to the

described sanctions and to the entry of findings that he failed to adequately and properly supervise the trading activities of sales representatives at his member firm.

Paul's suspension began October 20, 2003, and will conclude at the close of business October 19, 2004. (NASD Case #C04030051)

Mark Anthony Perrelli (CRD #1170060, Registered Principal, Jupiter, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any principal or supervisory capacity for 15 business days. Without admitting or denying the allegations, Perrelli consented to the described sanctions and to the entry of findings that he failed to reasonably supervise the activities of a registered representative.

Perrelli's suspension began on November 3, 2003, and will conclude at the close of business November 21, 2003. (NASD Case #C9B030068)

Samuel Q. Pittman (CRD #2590285, Registered Principal, Scottsdale, Arizona) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any principal or supervisory capacity for one month. Without admitting or denying the allegations, Pittman consented to the described sanctions and to the entry of findings that, while registered with a member firm, he failed to supervise individuals in a manner reasonably designed to achieve compliance with NASD rules.

Pittman's suspension began November 3, 2003, and will conclude at the close of business December 2, 2003. (NASD Case #C3A030040)

Vincent Joseph Puma (CRD #2358356, Registered Principal, Marlboro, New Jersey) was fined \$10,000 and suspended from association with any NASD member in any capacity for 10 business days. The NAC imposed the sanctions following the appeal of an OHO decision. The sanctions were based on findings that Puma effected an unauthorized transaction in the account of a public customer.

Puma's suspension began September 22, 2003, and concluded at the close of business October 3, 2003. (NASD Case #C10000122)

Robert James Quinn (CRD #2434173, Registered Representative, White Stone, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Quinn failed to respond to NASD requests to appear for on-the-record interviews. The findings also stated that Quinn willfully failed to disclose material information on his Form U4 and failed to respond to NASD requests for information in a timely manner. (NASD Case #C10030023)

Matthew Wilhelm Sandvik (CRD #2235440, Registered Representative, Summit, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Sandvik consented to the described sanction and to the entry of findings that he made unauthorized purchases of stock in the account of a public customer. NASD found that Sandvik exercised effective control over the accounts of public customers and recommended and effected purchase and sale securities transactions in the customers' accounts without having reasonable grounds for believing that such transactions were suitable for the customers in view of the size, frequency, and nature of the recommended transactions, and in light of the customers' investment objectives, circumstances, and needs. The findings also stated that Sandvik exercised discretion in the accounts of public customers without prior written authorization of the customers and prior written acceptance of the accounts as discretionary by his member firm. (NASD Case #C9B030069)

Steve Skytte (CRD #2562942, Registered Principal, Fountain Valley, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$6,000 and suspended from association with any NASD member in any principal capacity for 20 business days. The fine must be paid before Skytte reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Skytte consented to the described sanctions and to the entry of findings that he failed to establish and maintain a system to supervise the activities of registered representatives reasonably designed to achieve compliance with NASD rules including the establishment and maintenance of written supervisory procedures. The findings stated that Skytte failed to complete in a timely manner the Regulatory Element of NASD's Continuing Education Requirement.

Skytte's suspension began November 3, 2003, and will conclude at the close of business December 2, 2003. (NASD Case #C02030059)

Ole Leon Sorenson, Jr. (CRD #4553509, Associated Person, Gilbert, Arizona) was barred from association with any NASD member firm in any capacity. The sanction was based on findings that Sorenson failed to respond to NASD requests for information. NASD also found that Sorenson failed to disclose a material fact on his Form U4. (NASD Case #C3A030021)

Mark Gregory Steffan (CRD #1239718, Registered Principal, Kihei, Hawaii) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Steffan consented to the described sanction and to the entry of findings that he engaged in outside business activities for compensation without providing notification to his member firm. (NASD Case #C01030028)

Richard William Stopa (CRD #2368388, Registered Principal, Manalapan, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Stopa consented to the described sanction and to the entry of findings that, in order to circumvent New Jersey's denial of his registration application, he entered into an arrangement with another registered representative of his member firm who was properly registered in New Jersey to sell securities. The findings stated that, as part of the arrangement, Stopa falsified a New Jersey customer's account records so that the other registered representative appeared as the registered representative of record for an account actually handled by Stopa. NASD also found that Stopa received approximately \$25,000 in commissions from the other registered representative based on trading activity in that account. (NASD Case #C9B030070)

Victor Glenn Tartaglia (CRD #3021970, Registered Principal, Wayne, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and barred from association with any NASD member in a principal capacity. The fine must be paid before Tartaglia reassociates with a member firm following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Tartaglia consented to the described sanctions and to the entry of findings that, acting on behalf of a member firm, he permitted a person he knew, or should have known, to be subject to statutory disqualification to be an associated person of the firm and to engage in the securities business of the firm without appropriate regulatory approvals. (NASD Case #C11030035)

Christopher Cosme Tavares (CRD #2975868, Registered Principal, Lake Worth, Florida) and Alfred George Marchetti (CRD #1863487, Registered Principal, Boca Raton, Florida) submitted Offers of Settlement in which Tavares was fined \$25,000, including disgorgement of ill-gotten gains of \$9,165, suspended from association with any NASD member in any capacity for four months, suspended from association with any NASD member in a principal or supervisory capacity for two years, and required not to issue any research reports or in any way contribute to the preparation of any research report for three years. Marchetti was fined \$15,000, suspended from association with any NASD member in any capacity for two months, and barred from association with any NASD member in a principal or supervisory capacity. The fine must be paid before the respondents reassociate with a member firm following the suspension or before requesting relief from any statutory disqualification.

Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Tavares issued a negative research report on a security, and Marchetti traded ahead of a negative research report by engaging in short sales of the securities and realized a

profit of \$28,000. The findings stated that, in anticipation of issuing the negative research report, Tavares sold short 2,000 securities in his personal accounts and realized a profit of \$9,165 from his personal short selling. The findings also stated that Marchetti failed to make and annotate affirmative determinations in connection with the short sales of securities. NASD determined that Marchetti knew, or should have known, that Tavares had prepared research on a company and that he was trading in securities ahead of his research. In addition, NASD found that Tavares maintained accounts at another member firm but failed to inform the firm in writing of his association with an NASD member. Furthermore, NASD found that the respondents failed to establish and maintain a supervisory system and written supervisory procedures designed to secure compliance with securities laws and regulations. NASD also determined that Marchetti failed to supervise Tavares to ensure that he did not trade ahead of research for his personal benefit.

Tavares' suspensions began June 2, 2003; the suspension in all capacities concluded at the close of business October 1, 2003; and his suspension in a principal or supervisory capacity will conclude at the close of business June 1, 2005. Marchetti's suspension began September 24, 2003, and will conclude November 23, 2003. (NASD Case #CMS030047)

Patience Lane Taylor (CRD #1641535, Registered Supervisor, Plymouth, Massachusetts) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$2,500 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Taylor consented to the described sanctions and to the entry of findings that she settled a customer complaint without her member firm's knowledge or approval.

Taylor's suspension began November 3, 2003, and concluded at the close of business November 14, 2003. (NASD Case #C11030034)

John Wesley Thompson (CRD #1637595, Registered Principal, Ferguson, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Thompson consented to the described sanction and to the entry of findings that he received checks totaling \$76,089.91 from public customers to be invested and, without the knowledge or consent of the customers, deposited the checks into an account under his control, thereby converting the customers' funds to his own use and benefit. Also, the findings stated that Thompson failed to respond to NASD requests for information. (NASD Case #C04030055)

Moises Toledo (CRD #4164833, Registered Representative, Highland Beach, Florida) was barred from association with any NASD member in any capacity and ordered to pay \$99,732.35

in restitution to public customers. The sanctions were based on findings that Toledo failed to respond to NASD requests to appear for on-the-record interviews. The findings also stated that Toledo made factual misrepresentations and material omissions to public customers in the course of his sales presentations of a stock and made baseless price predictions to customers with regard to the stock. NASD also found that Toledo failed to execute sell orders of public customers. (NASD Case #CAF030010)

Charles David Traxel (CRD #4368097, Registered Representative, Renton, Washington) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Traxel consented to the described sanction and to the entry of findings that, without the consent or knowledge of a public customer, he affixed, or caused to be affixed, the signature of the customer to an Indemnity Agreement Sheet, which caused a bank to stop payment of a check previously issued to the customer in the amount of \$19,952.81 in order for Traxel to obtain possession and control of the funds. The findings also stated that Traxel caused the bank to offset the funds originally issued to a public customer by issuing a credit to his personal checking account, and Traxel thereby converted \$19,952.81 of the customer's funds to his own use and benefit. (NASD Case #C3B030014)

Gary H. Untracht (CRD #4499828, Registered Representative, Florham Park, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Untracht reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Untracht consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4.

Untracht's suspension began October 20, 2003, and will conclude at the close of business on January 19, 2004. (NASD Case #C9B030067)

David Paul Vanderzee (CRD #1199435, Registered Representative, Clifton Park, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Vanderzee consented to the described sanction and to the entry of findings that he engaged in private securities transactions without providing written notice to, or receiving approval from, his member firm. (NASD Case #C11030033)

Eric L. Warkentine (CRD #4285882, Registered Representative, Sarasota, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$4,000

and suspended from association with any NASD member in any capacity for 42 days. The fine must be paid before Warkentine reassociates with any NASD member in any capacity following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Warkentine consented to the described sanctions and to the entry of findings that he failed to respond to NASD requests for information.

Warkentine's suspension began October 20, 2003, and will conclude November 30, 2003. (NASD Case #C07030063)

John William West (CRD #1290825, Registered Representative, Dunbar, West Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before West reassociates with any NASD member in any capacity following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, West consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to give prior written notice of his intention to engage in such activities to his member firm and failed to receive prior written approval from his firm.

West's suspension began October 20, 2003, and will conclude at the close of business April 19, 2004. (NASD Case #C8B030019)

Barry Steven Wheeler (CRD #1157403, Registered Principal, Augusta, Georgia) submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for five business days. In light of the financial status of Wheeler, no monetary sanctions have been imposed. Without admitting or denying the allegations, Wheeler consented to the described sanction and to the entry of findings that a member firm, acting through Wheeler, conducted a securities business without maintaining its required net capital and filed materially inaccurate FOCUS reports. The findings also stated that a member firm, acting through Wheeler, failed to maintain an accurate purchase and sales blotter for mutual fund and variable annuity transactions. NASD also found that Wheeler failed to establish, maintain, and enforce adequate written supervisory procedures for municipal securities transactions. In addition, NASD found that a member firm, acting through Wheeler, failed to develop a written training plan and failed to maintain records evidencing the content of the program and the completion of training by the firm's covered persons.

Wheeler's suspension began November 3, 2003, and concluded at the close of business November 7, 2003. (NASD Case #C07030053)

Individuals Fined

Joseph Lawrence Peggs (CRD #1219721, Registered Principal, Indian Rocks Beach, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$10,000. Without admitting or denying the allegations, Peggs consented to the described sanctions and to the entry of findings that he created and used violative pieces of sales literature sent to numerous public customers and prospects that emphasized the benefits of a variable annuity but failed to present a balanced discussion of the product, and he omitted material information regarding costs, risks, and restrictions. The findings also stated that the newsletters failed to disclose that certain benefits were available only if the customer paid an extra cost and that there were surrender charges and reductions in benefits if certain withdrawals were made from the product. (NASD Case #CAF030054)

Earl Morton Slosberg (CRD# 1652341, Registered Principal, Palm Harbor, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$25,000. Without admitting or denying the allegations, Slosberg consented to the described sanctions and to the entry of findings that he created and used advertisements and a piece of sales literature that were misleading because they suggested that individuals purchasing variable annuities would pay no fees when, in fact, they do pay fees. The findings also stated that Slosberg created and used pieces of sales literature that failed to present a balanced discussion and omitted material information regarding dollar-cost averaging. NASD also found that Slosberg used a slide presentation at seminars that failed to present a balanced discussion and omitted material information regarding a guaranteed minimum death benefit for a particular variable annuity and failed to describe the conditions and costs associated with obtaining this benefit. (NASD Case #CAF030053)

Decisions Issued

The following decisions have been issued by the DBCC or the Office of Hearing Officers and have been appealed to or called for review by the NAC as of October 3, 2003. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notice to Members*.

Joseph Anthony Geraci, II (CRD #2138918, Registered Representative, Minneapolis, Minnesota) was fined \$15,000 and barred from association with any NASD member in any capacity. Geraci must pay the fine before he re-associates with a member firm or requests relief from any statutory

disqualification. The sanctions were based on findings that Geraci purchased, and solicited customers to purchase, common stock on the basis of material, nonpublic information, and Geraci had unrealized profits. The findings stated that Geraci knew, or should have known, that such improper disclosure constituted a breach of fiduciary or similar duty of trust and confidence by principals of his member firm, and Geraci knowingly purchased stock on the basis of such material, nonpublic information. In addition, NASD found that Geraci, directly or indirectly, by use of means or instrumentalities of interstate commerce, intentionally or recklessly employed a device, scheme, or artifice to defraud, or engaged in an act, practice, or course of business that would operate as a fraud or deceit in connection with the purchase or sale of a security.

Geraci has appealed this action to the NAC, and the sanctions are not in effect pending the NAC's consideration of the decision. (NASD Case #CMS020143)

J. Alexander Securities, Inc. (CRD #7809, Los Angeles, California), Richard Leon Newberg (CRD #346857, Registered Principal, Aventura, Florida), and James Alexander (CRD #2762, Registered Principal, Los Angeles, California). The firm was fined \$90,000, jointly and severally with Alexander, fined \$22,000 solely, and required to retain, at its own expense, an independent consultant for 18 months, during which time the consultant shall develop appropriate supervisory procedures in accordance with the conditions set forth in the decision. Newberg was barred from association with any NASD member in any capacity, and Alexander was suspended from association with any NASD member in any capacity for 90 days.

The sanctions were based on findings that the firm and Newberg engaged in the distribution of unregistered securities. NASD also found that the firm and Newberg engaged in manipulation by participating in matched trades that gave the appearance of market activity. In addition, NASD found that the firm filed false Form 211 filings. Moreover, NASD found that Newberg failed to notify his member firm prior to opening securities accounts at other firms and failed to give prompt written notice to the firm that he was engaged in outside business activities. Furthermore, NASD found that Newberg provided false testimony during an NASD on-the-record interview. NASD also found that the firm and Alexander failed to review Forms 211 and failed to maintain the requisite written supervisory procedures concerning Forms 211 and other matters involving shell companies.

This decision has been appealed to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #CAF010011)

Complaints Filed

The following complaints were issued by NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Maurice Wayne Abney (CRD #2733649, Registered Principal, Owensboro, Kentucky) was named as a respondent in an NASD complaint alleging that he recommended and effected transactions in the account of a public customer without having reasonable grounds for believing that the recommendation and resultant transactions were suitable for the customer on the basis of the customer's financial situation and needs. (NASD Case #C05030046)

Keith Jacob Andrews (CRD #2089621, Registered Representative, Romeoville, Illinois) was named as a respondent in an NASD complaint alleging that he converted customer funds by endorsing a \$10,000 check made payable to a public customer, and deposited the check into an account he controlled for his own use and benefit, without the customer's authorization, knowledge, or consent. The complaint also alleges that Andrews failed to respond to NASD requests for information. (NASD Case #C8A030070)

Christopher Alan Booze (CRD #3263962, Registered Representative, Lexington, Kentucky) was named as a respondent in an NASD complaint alleging that he completed an instruction form directing that a \$3,200 check be issued from a public customer account, and that the check be made payable to a third party and given to him without the customer's knowledge or consent, thereby making improper use of customer's funds. The complaint also alleges that Booze created and sent to a public customer an account statement incorrectly reflecting an overstated value in the customer's account. In addition, the complaint alleges that Booze failed to respond to NASD requests for information. (NASD Case #C05030048)

Jaime Antonio Flechas (CRD #2837750, Registered Representative, Flowood, Mississippi) was named as a respondent in an NASD complaint alleging that he arranged for the transfer of \$18,500 from the account of a public customer to his personal firm account without the customer's authorization or consent. The complaint also alleges that Flechas failed to respond to NASD requests for information. (NASD Case #C05030047)

James Richard Gonzales (CRD #4235861, Registered Representative, Plano, Texas) was named as a respondent in an NASD complaint alleging that he executed unauthorized securities transactions in the accounts of public customers. The complaint also alleges that, without the customers' knowledge

or consent, he entered false identification numbers for public customer accounts into his member firm's computer records in order to execute unauthorized transactions. The complaint also alleges that Gonzales failed to respond to NASD requests for information. (NASD Case #C05030050)

Roger A. Kapsalis (CRD #2159293, Registered Representative, Brooklyn, New York) was named as a respondent in an NASD complaint alleging that he either intentionally or recklessly failed to disclose materially adverse information to public customers in connection with his recommendations that customers purchase stock. The complaint also alleges that Kapsalis either intentionally or recklessly failed to disclose to customers his financial incentive for recommending a stock. In addition, the complaint alleges that Kapsalis acted in contravention of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder in that, by use of the means or instrumentalities of interstate commerce, or of the mails, or of any facility of any national securities exchange, he employed a device, scheme, or artifice to defraud; omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or a course of business which operated or could operate as a fraud or deceit upon persons, in connection with the recommendations he made to customers to purchase stock. (NASD Case #C3A030041)

Cara Ann Miller (CRD #2968371, Registered Representative, Florence, Kentucky) was named as a respondent in an NASD complaint alleging that she forged signatures in order to liquidate certificates of deposit owned by a public customer totaling \$7,322.58, and converted the funds to her own use and benefit without the customer's knowledge or consent. (NASD Case #C05030051)

Robert W. Oakes, Jr. (CRD #1396707, Registered Principal, Rumson, New Jersey) was named as a respondent in an NASD complaint alleging that he participated, directly or indirectly, in undertakings involving the purchase of securities from issuers or affiliates of issuers with a view to the distribution of a stock, thereby acting as an underwriter of the unregistered securities. The complaint also alleges that Oakes exercised discretion in the accounts of public customers and effected, or caused to be effected, transactions without having a written agreement with the customers to exercise discretion and without having obtained his member firm's prior written acceptance of each account as discretionary. (NASD Case #CAF030052)

Sean Donald Pascoe (CRD #2331266, Registered Representative, Boca Raton, Florida) was named as a respondent in an NASD complaint alleging that he effected unauthorized purchases in the accounts of public customers. The complaint also alleges that Pascoe failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C07030060)

Firm Expelled for Failing to Pay Fines and/or Costs in Accordance with NASD Rule 8320

Camden Securities, Inc.,
Los Angeles, California
(September 24, 2003)

Individuals Barred Pursuant to NASD Rule 9544 for Failure to Provide Information Requested Under NASD Rule 8210

(The date the bar became effective is listed after the entry.)

Altwater, Frederick R.
Bluffton, Ohio
(September 11, 2003)

Avella, Jr., Michael
Remsenburg, New York
(September 30, 2003)

Bautz, Phil D.
Madison, Wisconsin
(September 3, 2003)

Kyro, Thomas J.
Scottsdale, Arizona
(September 30, 2003)

Pepio, James
Garden City, New York
(September 3, 2003)

Peters, Troy M.
Solana Beach, California
(September 24, 2003)

Roginson, Thomas
Los Angeles, California
(September 11, 2003)

Starominski, Yevgeny
Forest Hills, New York
(September 24, 2003)

Strunk, David A.
Warren, Michigan
(September 11, 2003)

Supinsky, Jeffrey H.
Woodbury, New York
(September 11, 2003)

Thalheim, David
Old Westbury, New York
(September 30, 2003)

Thalheim has appealed this
decision to the SEC. (NASD
Case # 8210-10030008)

Torres, Roger E.
Miami, Florida
(September 17, 2003)

Vogt, Jr., Ronald William
Richmond, Virginia
(September 17, 2003)

Individuals Suspended Pursuant to NASD Rule 9541(b) for Failure to Provide Information Requested Under NASD Rule 8210

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Bush, Brandon T.
Boca Raton, Florida
(September 10, 2003)

Carrea, Anthony J.
Chesapeake, Virginia
(September 11, 2003)

Carroll, Kim Sang
Lake Forest, California
(September 17, 2003)

Charlton, Michael E.
Nashville, Tennessee
(September 26, 2003)

McDonald, Stephen
Daniel Island, South Carolina
(September 24, 2003)

Menlove, Troy
Sandy, Utah
(September 11, 2003)

Signorelli, Jr., Joseph
Parkland, Florida
(September 30, 2003)

Willis, John Carl
Englewood, Florida
(October 3, 2003)

Individuals Revoked for Failing to Pay Fines and/or Costs in Accordance with NASD Rule 8320

Byrum, Lindsay A.
Houston, Texas
(September 24, 2003)

Chase, James B.
Milwaukee, Wisconsin
(September 24, 2003)

Lipsky, Robert M.
Bellmore, New York
(September 24, 2003)

NASD Charges Peter Kellogg With Fraudulent Wash And Matched Trades

NASD has filed a disciplinary action against Peter Kellogg, senior partner of Spear, Leeds & Kellogg, L. P., alleging that Kellogg directed fraudulent wash trades and matched trades between four accounts he controlled.

The NASD complaint charged that between Aug. 1, 2001, and Aug. 13, 2001, Kellogg placed matched orders to buy and sell millions of shares of Thoratec Corp. common stock for four accounts he controlled, and in which he and his family had ownership interests. These trades resulted in minimal change of ownership in the shares of Thoratec, were executed at prices unrelated to market supply and demand, and created the false appearance of market activity in the stock. Kellogg indicated to NASD he directed these trades to recognize non-taxed capital gains in Thoratec stock held by I.A.T. Reinsurance Syndicate, Ltd., a Bermuda corporation owned by Kellogg's children, and Equity Holding, Inc., whose parent company, MCM, Inc., was owned in part by IAT. Kellogg also indicated that the trades were directed between accounts he controlled so that IAT and EH could recognize non-taxed gains while the accounts Kellogg controlled retained ownership of the Thoratec stock.

On Aug. 1, 2001, Kellogg directed Equity Holding to sell 700,000 shares of Thoratec to IAT. Six days later, Kellogg directed IAT to sell 1 million shares of Thoratec back to Equity Holding. On August 9, Kellogg directed IAT to sell 1 million shares of Thoratec, in two 500,000-share trades, to Kellogg's personal account and to MMK Reinsurance, a company owned by IAT. Four days later, Kellogg reversed those trades by directing the sale of the 1 million shares back to IAT.

As a result of these series of wash and matched trades, IAT recognized tax-exempt gains on sales of 2 million shares of Thoratec, while its holdings decreased by only 300,000 shares. Equity Holding recognized gains on the sale of the 700,000 shares of Thoratec while its holdings increased from 700,000 shares to 1 million. The accounts of Kellogg and MMK, which were used as the conduits for IAT's wash and matched trades on August 9 and August 13, did not have any change in their ownership of Thoratec.

Wash sales are trades of securities without a real change in ownership of the securities traded. Matched orders are orders to buy or sell securities that are entered with knowledge that a matching order on the opposite side has been or will be entered.

The complaint alleges that Kellogg, through these series of wash and matched trades, violated the antifraud provisions of the NASD rules and federal securities laws, and the NASD rule prohibiting the publication of reports of non-bona fide securities transactions. As a result of Kellogg's fraudulent trades, the companies owned by Kellogg's children recognized a greater profit than they would have received in the open market, and the trading public was deceived about the volume of trading in Thoratec stock and the prices at which that stock traded.

Under NASD rules, a firm or individual named in a complaint can file a response and request a hearing before an NASD disciplinary panel. Possible sanctions include a fine, censure, suspension, or bar from the securities industry, disgorgement of gains associated with the violations, and payment of restitution.